

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION

United States of America,) CRIMINAL NO. 0:13-480
)
)
 v.) **OPINION and ORDER**
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)
William Lee Jones,)
)
 Defendant.)
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)_____

Defendant has filed a motion for relief seeking to be pardoned, released, and his identity changed. ECF No. 98. As Defendant requests a pardon and release from prison, Defendant's motion is, in reality, a motion for relief under 28 U.S.C. § 2255. “[A] motion directly attacking the prisoner’s conviction or sentence will usually amount to” a § 2255 motion. *United States v. Winestock*, 340 F.3d 200, 207 (4th Cir. 2003).

Defendant filed two prior motions for relief pursuant to 28 U.S.C. § 2255: on July 1, 2014 (ECF No. 56), and on July 8, 2016 (ECF No. 95). After full briefing of Defendant's initial § 2255 motion, the court granted in part and denied in part the Government's motion to dismiss, and resentenced Defendant. ECF Nos. 83, 90. Defendant's second § 2255 motion was dismissed as successive. ECF No. 96.

The current motion is a successive § 2255 motion. Defendant's failure to seek permission to file a second or successive motion in the appropriate court of appeals prior to the filing of the motion in the district court is fatal to the outcome of any action on the motion in this court. Prior to filing a second or successive motion under § 2255, Defendant must obtain certification by a panel of the Fourth Circuit Court of Appeals allowing him to file a second or successive motion. As provided in 28 U.S.C. § 2244, “[b]efore a second or successive application permitted by this

section is filed in the district court, the applicant shall move in the appropriate court of appeals for an order authorizing the district court to consider the application.” 28 U.S.C. § 2244(b)(3)(A). *See also* Rule 9 of the Rules Governing 2255 Proceedings (“Before presenting a second or successive motion, the moving party must obtain an order from the appropriate court of appeals authorizing the district court to consider the motion . . .”). Defendant has not received an order from the Fourth Circuit authorizing filing of a successive § 2255.

The requirement of petitioning a court of appeals (in this instance, the Fourth Circuit) for permission to file a second or successive § 2255 motion is jurisdictional. Therefore, Defendant’s failure to receive permission from the Fourth Circuit Court of Appeals prior to filing this § 2255 motion is fatal to any action in this court. This motion is dismissed as this court is without jurisdiction to consider it.

IT IS SO ORDERED.

s/ Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
Senior United States District Judge

Columbia, South Carolina
July 27, 2016